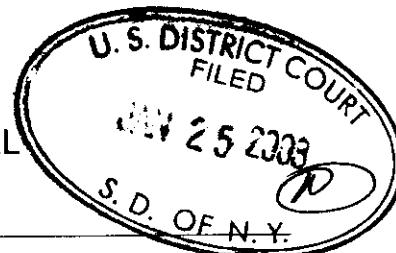


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKDocument # 81

USA

-v-  
Shlomo CohenUSCA NO. 08-17397  
SDNY NO. 08cv17397  
JUDGE: Cecilia M. Valdez  
DATE: 1/25/08

## INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME) Cheney J. Stein

FIRM

ADDRESS 387 River RoadChappaqua, NY 10511PHONE NO. 484-771-2000

## DISTRICT COURT DOCKET ENTRIES -----

DOCUMENTS

DOC#

Clerk's Certificate

See Attached List of Numbered Documents

Only Circled Documents Included

() Original Record() Supplemental RecordThe record in the above entitled case was indexed to the U.S.C.A.  
for the Second Circuit on the 25th Day of Jan., 2008.

**United States District Court for  
the Southern District of New York**

USA

-V-

Shlomo Cohen

Date: 1/25/08

U.S.C.A. # 07-5709-pr  
01-CR-1208-G(B)  
U.S.D.C. # 07-cv-7397

D.C. JUDGE: George Daniels

**Clerk's Certificate**

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 80, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

<b>Date Filed</b>	<b>Document Description</b>
1/12/01	1 COMPLAINT
1/12/01	2 Notice Appearance
1/12/01	3 Order Appointing Federal Defender
1/07/01	4 PRB Bond
1/20/01	5 Order Admitting Recalled
1/18/01	68 MANDATE
8/08/01	71 Transcript 7/31/00
1/06/06	75 Order Denying Furlough
1/24/07	77 Appeal Record
1/18/07	79 Order Denying 2255 Motion

[#1-2255 Motion] 8/26/07

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 25<sup>th</sup> Day of January In this year of our Lord, Two Thousand and Eight, and the Independence of the United States this 232<sup>nd</sup> year.

J. Michael McMahon, Clerk

By \_\_\_\_\_

Deputy Clerk

APPEAL, CLOSED, CROSBY, PRIOR

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CRIMINAL DOCKET FOR CASE #: 1:01-cr-01208-GBD-2**  
**Internal Use Only**

Case title: USA v. Shtoukhamer  
 Related Case: 1:07-cv-07397-GBD  
 Magistrate judge case number: 1:01-nj-02061

Date Filed: 10/31/2001  
 Date Terminated: 02/11/2004

Date Filed	#	Docket Text
10/31/2001		CASE Assigned to Judge George B. Daniels (jm) (Entered: 01/03/2002)
11/26/2001	1	COMPLAINT as to Shlomo Cohen ( signed by Magistrate Judge Henry B. Pitman ) [ 1:01-m -2061 ] (kw) (Entered: 11/28/2001)
11/26/2001		ARREST of Shlomo Cohen [ 1:01-m -2061 ] (kw) (Entered: 11/28/2001)
11/26/2001	2	NOTICE of Appearance for Shlomo Cohen by Attorney Robert M. Baum [ 1:01-m -2061 ] (kw) (Entered: 11/28/2001)
11/26/2001	3	ORDER Appointing Federal Public Defender for Shlomo Cohen [ 1:01-m -2061 ] (kw) (Entered: 11/28/2001)
11/26/2001		First Appearance as to Shlomo Cohen held with defendant, LA Robert Baum and AUSA Mark Racanelli for the government. Bail set at \$25,000 PRB to be cosigned by 3 FRP; Secured by Property by defendant's resides; travel restricted to sdny, edny and district of connecticut; surrender travel documents and no new applications; defendant to surrender passport of wife and children; strict pretrial; home detention with electronic monitoring; defendant can travel to connecticut Monday - Friday 9am - 7pm; defendant can be released upon the following conditions property is posted and passport surrendered. Preliminary Examination set for 12/26/01 for Shlomo Cohen ; before Magistrate Judge Henry B. Pitman . [ 1:01-m -2061 ] (kw) (Entered: 11/28/2001)
12/07/2001	4	PRB BOND filed by Shlomo Cohen in Amount \$ 250,000 to be co-signed by 3 FRP'S; property to be secured by the deft. resident; travel restrictions include the SDNY/EDNY and extended to include the DIST OF CONNECTICUT; surrender of travel documents and no new applications for any new ones; deft. to surrender the passport of his wife and children; strict pre-trial supervision; home detention with electronic monitoring; deft. can travel to connecticut Monday and Thursday 9AM to 7PM deft. can be released when the property is posted and the passports are surrendered. [ 1:01-m -2061 ] (jma) (Entered: 12/10/2001)
12/07/2001	5	Order of advice of penalties and sanctions as to Shlomo Cohen. () [ 1:01-m -2061 ] (jma) (Entered: 12/10/2001)
12/21/2001	12	(S1) SUPERSEDING INDICTMENT as to Shlomo Cohen (2) count(s) 1. (bw) (Entered: 01/14/2002)
12/21/2001		Arraignment as to Shlomo Cohen held: Shlomo Cohen (2) count(s) 1, before Judge George B. Daniels. Deft present w/atty Robert Baum. AUSA Mark Racanelli present with Court reporter. Deft arraigned on Superseding Indictment. Deft plead not guilty. Next conference 1/16/02, 10:45 a.m. Time excluded until that date in the interests of justice. (bw) (Entered: 01/14/2002)
12/21/2001		PLEA entered by Shlomo Cohen. Court accepts plea. Not Guilty: Shlomo Cohen (2) count(s) 1. (bw) (Entered: 01/14/2002)
12/21/2001		ORAL ORDER as to Shlomo Cohen . SET pre-trial conference for 10:45 a.m. 1/16/02 for Shlomo Cohen ; and to Continue in Interests of Justice time is excluded from 12/21/01 to 1/16/02. ( Entered by Judge George B. Daniels ) (bw) (Entered: 01/14/2002)
01/08/2002	13	Filed Memo-Endorsement on letter addressed to Judge Daniels from Legal Aid Attorney Robert M. Baum, dated 12/21/01, as to deft Shlomo Cohen. Mr. Baum requests a modification of deft Cohen's electronic monitoring to allow said deft to attend sabbath services on Friday evenings from 4:00 p.m. to 7:00 p.m. and on Saturday from 10:00 a.m. until 2:00 p.m.; JUDGE "SO ORDERED". ( Signed on 1/2/02 by Judge George B. Daniels ): Copies mailed. (bw) (Entered: 01/14/2002)
01/16/2002		Pretrial Conference as to Shlomo Cohen held before Judge George B. Daniels. Deft present w/atty J. Jeffrey Weisenfeld. AUSA Mark Racanelli present with Court reporter. Next conference 3/6/02, 9:30 a.m. Time excluded until that date in the interests of justice. (bw) (Entered: 01/17/2002)
01/16/2002		ORAL ORDER as to Shlomo Cohen . SET pre-trial conference for 9:30 a.m. 3/6/02 for Shlomo Cohen. ( Entered by Judge George B. Daniels ) (bw) (Entered: 01/17/2002)
03/06/2002		Pretrial Conference as to Eliase Shtoukhamer, Shlomo Cohen held before Judge George B. Daniels. Deft Cohen present w/atty J. Jeffrey Weisenfeld. Deft Shtoukhamer present w/atty David Wikstrom. AUSA Mark Racanelli present with Court Reporter. Next conference 4/4/02, 9:30 a.m. Time excluded until that date in the interests of justice.

	(bw) (Entered: 03/07/2002)
03/06/2002	ORAL ORDER as to Eliase Shtoukhamer, Shlomo Cohen . SET pre-trial conference for 9:30 a.m. 4/4/02 for Eliase Shtoukhamer, for Shlomo Cohen. ( Entered by Judge George B. Daniels ) (bw) (Entered: 03/07/2002)
04/03/2002	14 TRANSCRIPT of record of proceedings as to Eliase Shtoukhamer, Shlomo Cohen for date of March 6, 2002, before Judge George B. Daniels. (bw) (Entered: 04/03/2002)
04/04/2002	15 Filed Memo-Endorsement on letter addressed to Judge Daniels from AUSA Mark A. Racanelli, dated 4/3/02, as to defts Eliase Shtoukhamer, Shlomo Cohen. The status conference scheduled for 4/4/02 at 9:45 a.m. has been adjourned until 4/17/02 at 9:30 a.m. The Govt requests that the Court exclude time from the speedy trial calendar between now and 4/17/02, based on a finding that the ends of justice served by the continuance outweigh the best interests of the public and the deft in a speedy trial under 18 U.S.C. Section 3161(h)(8); JUDGE "SO ORDERED". ( Signed on 4/3/02 by Judge George B. Daniels ); Copies mailed. (bw) (Entered: 04/05/2002)
04/17/2002	PRETRIAL CONFERENCE as to Eliase Shtoukhamer, Shlomo Cohen held before Judge George B. Daniels. Deft Cohen present w/atty J. Jeffrey Weisenfeld. Deft Shtoukhamer present w/atty David Wikstrom. AUSA Mark Racanelli and Jeffrey Udell present with Court reporter. Deft Shtoukhamer will enter plea on 4/30/02, 9:45 a.m. Next conference for deft Cohen on 7/8/02, 10:00 a.m. Time excluded until that date in the interests of justice. (bw) Modified on 04/19/2002 (Entered: 04/19/2002)
04/17/2002	ORAL ORDER as to Eliase Shtoukhamer, Shlomo Cohen . SET Plea Hearing for 9:45 a.m. 4/30/02 for Eliase Shtoukhamer ; and SET pretrial conference for 10:00 a.m. 7/8/02 for Shlomo Cohen. ( Entered by Judge George B. Daniels ) (bw) (Entered: 04/19/2002)
04/26/2002	16 Filed Memo-Endorsement on letter addressed to Judge Daniels from Attorney J. Jeffrey Weisenfeld, dated 4/25/02, as to deft Shlomo Cohen. Mr. Weisenfeld requests until 6/18/02 for deft to file his motions. The govt still wishes three weeks to respond and defense still require one week to reply; JUDGE ENDORSED - The conference will be held on July 24, 2002 at 9:45 a.m. ( Signed by Judge George B. Daniels ); Copies mailed. (bw) (Entered: 04/30/2002)
05/15/2002	18 Filed Memo-Endorsement on letter addressed to Judge Daniels from Attorney J. Jeffrey Weisenfeld, dated 5/13/02, as to deft Shlomo Cohen. Mr. Weisenfeld requests an adjournment from 5/16/02 to 5/21/02 for the hearing of deft Cohen's alleged violation of the conditions of his bail; JUDGE ENDORSED - The hearing will be held on May 23, 2002 at 9:45 a.m. ( Signed by Judge George B. Daniels ); Copies mailed. [ microfilm 5/15/02 3pm ] (bw) Modified on 05/16/2002 (Entered: 05/16/2002)
05/23/2002	Bail hearing as to Shlomo Cohen held before Judge George B. Daniels. Deft present w/atty J. Jeffrey Weisenfeld. AUSA Mark Racanelli present with court reporter, and Pretrial Services Officer Dennis Khilkevitch. Deft is restricted to his home except to attend religious services in Brooklyn on Fridays 4-7p.m. and Saturday 10a.m.-2p.m. Next conference 7/24/02, 9:45 a.m. Time excluded until that date in the interests of justice. (bw) Modified on 05/23/2002 (Entered: 05/23/2002)
05/23/2002	ORAL ORDER as to Shlomo Cohen . SET pretrial conference for 9:45 a.m. 7/24/02 for Shlomo Cohen ; and to Continue in Interests of Justice time is excluded from 5/23/02 to 7/24/02. ( Entered by Judge George B. Daniels ) (bw) (Entered: 05/23/2002)
06/07/2002	19 TRANSCRIPT of record of proceedings as to Eliase Shtoukhamer, Shlomo Cohen for date of April 17, 2002, before Judge George B. Daniels. (bw) (Entered: 06/07/2002)
06/19/2002	20 Filed Memo-Endorsement on letter addressed to Judge Daniels from Attorney J. Jeffrey Weisenfeld, dated 6/14/02, as to deft Shlomo Cohen. Mr. Weisenfeld requests an enlargement of time to file Mr. Cohen's motions to 6/28/02. The Govt should answer by 7/19/02. Any reply would be filed on or before 7/22/02; JUDGE "SO ORDERED". ( Signed on 6/18/02 by Judge George B. Daniels ); Copies mailed. [ microfilm 6/19/02 3pm ] (bw) (Entered: 06/20/2002)
07/01/2002	21 TRANSCRIPT of record of proceedings as to Shlomo Cohen for date of May 23, 2002, before Judge George B. Daniels. (bw) (Entered: 07/02/2002)
07/01/2002	22 MOTION by Shlomo Cohen to dismiss and for discovery and a bill of particulars. Return Date to be set by the Court. (bw) (Entered: 07/02/2002)
07/01/2002	23 MEMORANDUM by Shlomo Cohen in support of [22-1] motion to dismiss and for discovery and a bill of particulars. (bw) (Entered: 07/02/2002)
07/09/2002	24 NOTICE of Appearance for Shlomo Cohen by Attorney David I. Schoen. (bw) (Entered: 07/10/2002)
07/12/2002	25 LETTER addressed to the Clerk of the Court from Attorney David Schoen, dated 7/3/02, filed by deft Shlomo Cohen Re: "Exhibit A" was not attached to the Affirmation when Mr. Schoen filed the motion papers on 6/28/02. Enclosed with this letter is "Exhibit A". [ Accepted for filing by Judge Daniels ] (bw) Modified on 07/15/2002 (Entered: 07/15/2002)
07/18/2002	26 MEMORANDUM OF LAW by USA as to Shlomo Cohen in opposition to deft's pre-trial motions: [22-1] motion to dismiss and for discovery and a bill of particulars. (bw) (Entered: 07/19/2002)
07/24/2002	PRETRIAL CONFERENCE as to Shlomo Cohen held before Judge George B. Daniels. Deft present with attorneys David Schoen, J. Jeffrey Weisenfeld, and Labe M. Richman. AUSAs Mark Racanelli and Jeffrey Udell present with court reporter. Defense pre-trial motions denied. Next conference 10/16/02, 10:00 a.m. Trial to be held 11/4/02, 10:00 a.m. (bw) (Entered: 07/31/2002)

07/24/2002		ORAL ORDER as to Shlomo Cohen denying [22-1] motion to dismiss and for discovery and a bill of particulars; and SET scheduling order deadlines: Pretrial Conference set for 10:00 a.m. 10/16/02 for Shlomo Cohen; Jury Trial set for 10:00 a.m. 11/4/02 for Shlomo Cohen. ( Entered by Judge George B. Daniels ) (bw) (Entered: 07/31/2002)
09/03/2002	(28)	TRANSCRIPT of record of proceedings as to Shlomo Cohen for date of July 24, 2002, before Judge George B. Daniels. (bw) (Entered: 09/04/2002)
10/09/2002	(29)	Filed Memo-Endorsement on letter; addressed to Judge Daniels from AUSA Mark A. Racanelli, dated 10/4/02, filed by USA as to deft Shlomo Cohen. The parties request that the trial be adjourned from 11/4/02 to the week of 11/12/02. A final pre-trial conference is currently scheduled for 10/16/02 at 10:00 a.m. They defer to the Court as to whether that date should be moved. The Govt only requests that the date for production of Giglio and 3500 material be moved in step with the new trial date (which would make the new date November 4); JUDGE "SO ORDERED". ( Signed on 10/8/02 by Judge George B. Daniels ). (bw) (Entered: 10/10/2002)
10/16/2002		PRETRIAL CONFERENCE as to Shlomo Cohen held before Judge George B. Daniels. Deft present w/attys David Schoen and Labe Richman and Jeffrey Weisenfeld, AUSA Mark Racanelli present, and Court reporter present. Next conference scheduled for 11/7/02 at 11 a.m. to discuss the proffer. Giglio and 3500 material to be produced by 11/4/02. (bw) (Entered: 10/18/2002)
10/16/2002		ORAL ORDER as to Shlomo Cohen . SET pretrial conference for 11:00 a.m. 11/7/02 for Shlomo Cohen. ( Entered by Judge George B. Daniels ) (bw) (Entered: 10/18/2002)
10/24/2002	(30)	MOTION by Attorney David I. Schoen, filed as to deft Shlomo Cohen, for leave to withdraw as defense counsel. Return Date to be set by the Court. (bw) (Entered: 10/25/2002)
10/25/2002		ORAL ARGUMENT as to Shlomo Cohen held before Judge George B. Daniels. Oral argument on David Schoen's Motion for Leave to Withdraw as Defense Counsel. Deft present w/attys David Schoen, Labe Richman, and Jeffrey Weisenfeld; AUSA Jeffrey Udell present; and Court reporter present. Next conference scheduled for 11/7/02 at 11:00 a.m. Trial scheduled to begin on 11/12/02 at 10:00 a.m. (bw) (Entered: 10/29/2002)
10/25/2002		ORAL ORDER as to Shlomo Cohen . SET pretrial conference for 11:00 a.m. 11/7/02 for Shlomo Cohen ; and SET Jury trial for 10:00 a.m. 11/12/02 for Shlomo Cohen. ( Entered by Judge George B. Daniels ) (bw) (Entered: 10/29/2002)
10/28/2002	(31)	ORDER as to Shlomo Cohen. David Schoen's motion in the above-referenced action for Leave to Withdraw as Defense Counsel is granted for the reasons stated on the record in open court on 10/25/02. ( Signed on 10/25/02 by Judge George B. Daniels ). [ refer to Motion, doc.#30 ] (bw) (Entered: 10/29/2002)
11/07/2002		PRETRIAL CONFERENCE as to Shlomo Cohen held before Judge George B. Daniels. Deft present w/counsel Jeffrey Weisenfeld, Labe Richman, and Adrian DiLuzio; AUSA Mark Racanelli and AUSA Jeff Udell present; court reporter present. Motion of Weisenfeld and Richman to withdraw as Defense counsel granted. Motion of Adrian DiLuzio to substitute as Defense counsel granted. Trial adjourned until 1/21/03 at 10:00 a.m. Pretrial conference scheduled for 1/16/03 at 9:30 a.m. Time excluded from 11/7/02 until 1/16/03 in the interests of justice. (bw) (Entered: 11/12/2002)
11/07/2002		ORAL ORDER as to Shlomo Cohen . SET scheduling order deadlines: Pretrial Conference set for 9:30 a.m. 1/16/03 for Shlomo Cohen; Jury Trial reset for 10:00 a.m. 1/21/03 for Shlomo Cohen. ( Entered by Judge George B. Daniels ) (bw) (Entered: 11/12/2002)
11/13/2002	(32)	ORDER as to Shlomo Cohen. The motion of J. Jeffrey Weisenfeld and Labe Richman to withdraw as defense counsel is granted for the reasons stated on the record in open court on 11/7/02. Further, the motion of Adrian DeLuzio to substitute himself and Michael Soshnick as defense counsel is granted. The 11/12/02 trial date will be adjourned to 1/21/03. ( Signed on 11/8/02 by Judge George B. Daniels ) (bw) (Entered: 11/15/2002)
12/03/2002	(33)	TRANSCRIPT of record of proceedings as to Shlomo Cohen for date of 10/16/02, before Judge George B. Daniels. (bw) (Entered: 12/04/2002)
12/03/2002	(34)	TRANSCRIPT of record of proceedings as to Shlomo Cohen for date of 10/25/02, before Judge George B. Daniels. (bw) (Entered: 12/04/2002)
12/27/2002	(35)	TRANSCRIPT of record of proceedings as to Shlomo Cohen for date of 11/7/02, before Judge George B. Daniels. (bw) (Entered: 12/27/2002)
01/09/2003	(36)	(S2) SUPERSEDING INDICTMENT as to Shlomo Cohen (2) count(s) 1s, 2s, 3s. [ microfilm 1/15/03 12pm ] (ja) Modified on 01/17/2003 (Entered: 01/15/2003)
01/16/2003		PRETRIAL CONFERENCE as to Shlomo Cohen held before Judge George B. Daniels. Deft present w/attys Michael Soshnick and Adrian DeLuzio; AUSA Benjamin Lawsky present; AUSA Jeff Udell present; Interpreter present; court reporter present. Conference held. Govt motion in limine to introduce plea allocution of co-deft at trial DENIED. Deft motion to dismiss Count II and III of Superseding Indictment DENIED. Final PTC scheduled for 1/21/03 at 9:45 a.m. (bw) (Entered: 01/21/2003)
01/16/2003		ORAL ORDER as to Shlomo Cohen . SET pretrial conference for 9:45 a.m. 1/21/03 for Shlomo Cohen. ( Entered by Judge George B. Daniels ) (bw) (Entered: 01/21/2003)

01/21/2003		PRETRIAL CONFERENCE as to Shlomo Cohen held before Judge George B. Daniels. Deft present w/atty Adrian DeLugio and atty Michael Soshnick; Hebrew Interpreter present; AUSA Jeff Udell and AUSA Benjamin Lawsky present; court reporter present. Final pretrial conference held. Deft arraigned on Second Superseding Indictment. Deft pleads Not Guilty. Court accepts plea. (bw) (Entered: 01/23/2003)
01/21/2003		Arraignment as to Shlomo Cohen held: Shlomo Cohen (2) count(s) 1s, 2s, 3s, before Judge George B. Daniels. Deft pleads Not Guilty. (bw) (Entered: 01/23/2003)
01/21/2003		PLEA entered by Shlomo Cohen. Court accepts plea. Not Guilty: Shlomo Cohen (2) count(s) 1s, 2s, 3s. (bw) (Entered: 01/23/2003)
01/21/2003		Voir dire begun as to Shlomo Cohen (2) count(s) 1s, 1, 2s, 3s, before Judge Daniels. Deft present w/atty Adrian DeLuzio and atty Michael Soshnick; AUSA Jeff Udell and AUSA Benjamin Lawsky present; Hebrew interpreters present; court reporter present. Voir dire begun. (bw) (Entered: 01/27/2003)
01/21/2003		Jury trial as to Shlomo Cohen begun. (bw) (Entered: 01/27/2003)
01/21/2003		Jury trial as to Shlomo Cohen held. (bw) (Entered: 01/27/2003)
01/22/2003		Jury trial as to Shlomo Cohen held. Deft present w/atty Adrian DeLuzio and atty Michael Soshnick; AUSA Jeff Udell and AUSA Benjamin Lawsky present; Hebrew interpreters present; court reporter present. Voir dire completed. Jury trial held. Trial continued. (bw) (Entered: 01/27/2003)
01/23/2003		Jury trial as to Shlomo Cohen held. (bw) (Entered: 01/27/2003)
01/24/2003		Jury trial as to Shlomo Cohen held. (bw) (Entered: 01/27/2003)
01/24/2003		Jury trial as to Shlomo Cohen continued to 1/29/03. (bw) (Entered: 01/31/2003)
01/29/2003		Jury trial as to Shlomo Cohen held. Deft present w/atty Adrian DeLuzio and atty Michael Soshnick; AUSA Jeff Udell and AUSA Benjamin Lawsky present; Hebrew interpreters present; court reporter present. Jury trial held. Trial continued. (bw) (Entered: 01/31/2003)
01/30/2003		Jury trial as to Shlomo Cohen held. (bw) (Entered: 01/31/2003)
01/30/2003		Jury trial as to Shlomo Cohen concluded. Deft present w/atty Adrian DeLuzio and atty Michael Soshnick. AUSA Jeff Udell and AUSA Benjamin Lawsky present; court reporter present; Hebrew interpreters present. Jury trial as to Shlomo Cohen concluded. Jury Verdict reached. Deft found guilty on Count 1 and guilty on Count 2; Deft found not guilty on Count 3. Trial concluded. (bw) (Entered: 01/31/2003)
01/30/2003		JURY VERDICT as to Shlomo Cohen. Guilty: Shlomo Cohen (2) count(s) 1s, 2s ; and Not Guilty: Shlomo Cohen (2) count(s) 3s. (bw) (Entered: 01/31/2003)
01/31/2003	(40)	ORDER as to Shlomo Cohen. Having been found by guilty after jury trial, it is hereby ORDERED that the deft's bail is revoked and the deft is remanded into the custody of the Federal Bureau of Prisons. ( Signed on 1/30/03 by Judge George B. Daniels ). [ microfilm 1/31/03 3pm ] (bw) (Entered: 02/06/2003)
02/07/2003	(41)	Filed Memo-Endorsement on letter: addressed to Judge Daniels from Attorney Adrian L. DiLuzio, dated 2/5/03, filed by deft Shlomo Cohen. Mr. DiLuzio requests the Judge to extend the time for filing post-trial motions to 3/21/03; JUDGE "SO ORDERED". ( Signed on 2/6/03 by Judge George B. Daniels ). [ microfilm 2/7/03 12pm ] (bw) (Entered: 02/10/2003)
03/04/2003	(42)	TRANSCRIPT of record of proceedings as to Shlomo Cohen for date of 1/16/03, before Judge George B. Daniels. (bw) (Entered: 03/04/2003)
03/17/2003	(43)	TRANSCRIPT of record of proceedings as to Shlomo Cohen for dates of 1/21,22,23,27,28,29,30,31/2003, before Judge George B. Daniels . (pr) (Entered: 03/17/2003)
03/17/2003	(44)	TRANSCRIPT of record of proceedings as to Shlomo Cohen for dates of 1/29,30/2003, before Judge George B. Daniels . (pr) (Entered: 03/17/2003)
03/25/2003	(45)	Filed Memo-Endorsement on letter: addressed to Judge Daniels from Attorney Adrian L. DiLuzio, dated 3/20/03, filed by deft Shlomo Cohen. Mr. DiLuzio asks the Court to extend the time for him to file a Rule 29 and 33 motion in this matter to 3/28/03; JUDGE "SO ORDERED". ( Signed on 3/25/03 by Judge George B. Daniels ). [ microfilm 3/26/03 9am ] (bw) (Entered: 03/27/2003)
04/11/2003	(46)	MOTION by Shlomo Cohen for an order granting a new trial in the interests of justice pursuant to Fed.R.Crim.P. 33, and for such other and further relief as the Court may deem just and proper consistent with the relief already sought by this motion. Return Date to be set by the Court. (bw) (Entered: 04/14/2003)
04/11/2003	(47)	MEMORANDUM OF LAW by Shlomo Cohen in support of [46-1] motion for an order granting a new trial in the interests of justice pursuant to Fed.R.Crim.P. 33, and for such other and further relief as the Court may deem just and proper consistent with the relief already sought by this motion. (bw) (Entered: 04/14/2003)
05/01/2003	(48)	Filed Memo-Endorsement on letter: addressed to Judge Daniels from AUSA Jeffrey A. Udell, dated 4/25/03, filed by USA as to deft Shlomo Cohen. The Govt requests until 5/2/03 to answer the Rule 33 motion and until 5/9/03 to respond to the departure motion. The Govt stated that the Judge's law clerk, Licha Nyiendo, has indicated that 6/11/03 at 9:30 a.m. is available on the Court's calendar for sentencing; JUDGE "SO ORDERED". ( Signed on 4/29/03 by

	Judge George B. Daniels ). [ microfilm 5/2/03 9am ] (bw) (Entered: 05/02/2003)
05/05/2003	(49) MEMORANDUM OF LAW by USA as to Shlomo Cohen in opposition to Rule 33 motion of defendant Shlomo Cohen. (bw) (Entered: 05/06/2003)
05/06/2003	(50) Filed Memo-Endorsement on letter: addressed to Judge Daniels from AUSA Jeffrey A. Udell, dated 4/25/03, filed by USA as to deft Shlomo Cohen. The Govt requests until 5/23/03 to submit its response to the deft's departure motion, assuming it is indeed filed this week; JUDGE "SO ORDERED". ( Signed on 4/6/03 by Judge George B. Daniels ). [ microfilm 5/6/03 3pm ] (bw) (Entered: 05/07/2003)
05/09/2003	(51) MOTION by Shlomo Cohen For an order granting a downward departure pursuant to US Sentencing Guidelines 5K2 et seq , and for such other and further relief as the Court may deem just and proper consistent with the relief sought by this motion Return Date not specified. (jw) (Entered: 05/13/2003)
05/09/2003	(52) MEMORANDUM by Shlomo Cohen in support of [51-1] motion For an order granting a downward departure pursuant to US Sentencing Guidelines 5K2 et seq (jw) (Entered: 05/13/2003)
05/23/2003	(53) Filed Memo-Endorsement on letter: addressed to Judge Daniels from AUSA Benjamin M. Lawsky, dated 5/21/03, filed by USA as to deft Shlomo Cohen. The Govt requests an additional two weeks, until 6/6/03, to submit its response to the deft's downward departure; JUDGE "SO ORDERED". ( Signed on 5/22/03 by Judge George B. Daniels ). [ microfilm 5/23/03 12pm ] (bw) (Entered: 05/23/2003)
06/09/2003	(54) Filed Memo-Endorsement on letter: addressed to Judge Daniels from Attorney Bettina Schein, dated 6/6/03, filed by deft Shlomo Cohen. Attorney Schein requests that the court permit her to be substituted as counsel for deft Cohen and that Michael Soshnick and Adrian L. Diluzio be relieved as counsel. Deft Cohen has requested that Attorney Schein represent him at sentencing and that prior to sentencing a supplemental Rule 33 motion is permitted to be filed. Accordingly, Attorney Schein requests an adjournment of the sentencing proceedings currently scheduled for 6/11/03 at 9:30; JUDGE ENDORSED - Sentencing is rescheduled for August 27, 2003 at 10:30 a.m. ( Signed on 6/9/03 by Judge George B. Daniels ). [ microfilm 6/9/03 3pm ] (bw) (Entered: 06/10/2003)
09/05/2003	(55) Filed Memo-Endorsement on letter: addressed to Judge Daniels from Attorney Bettina Schein, dated 9/3/03, filed by deft Shlomo Cohen. Attorney Schein requests an adjournment of the sentencing proceedings, presently scheduled for 9/10/03 at 10:30 a.m., until the week of 9/22/03; JUDGE "SO ORDERED." ( Signed on 9/4/03 by Judge George B. Daniels ). [ microfilm 9/5/03 12pm ] (bw) (Entered: 09/08/2003)
09/12/2003	(56) Filed Memo-Endorsement on letter: addressed to Judge Daniels from Attorney Bettina Schein, dated 9/9/03, filed by deft Shlomo Cohen. Mr. Schein requests an adjournment of the sentencing proceedings to 10/29/03 at 10:30 a.m.; JUDGE ENDORSED - The conference has been rescheduled for 10/22/03 at 10:30 a.m. ( Signed on 9/11/03 by Judge George B. Daniels ). [ microfilm 9/12/03 3pm ] (bw) (Entered: 09/15/2003)
10/17/2003	(57) Filed Memo-Endorsement on letter: addressed to Judge Daniels from AUSA Jeffrey A. Udell, dated 10/16/03, filed by USA as to deft Shlomo Cohen. The Govt requests that the Court adjourn the sentencing from 10/22/03 9:30 a.m. for four weeks; JUDGE ENDORSED - The sentencing has been rescheduled for November 19, 2003 at 10:00 a.m. ( Signed on 10/16/03 by Judge George B. Daniels ). [ microfilm 10/17/03 12 p.m. ] (bw) (Entered: 10/20/2003)
10/17/2003	(58) SENTENCING MEMORANDUM by Shlomo Cohen. [ Accepted for filing by Judge Daniels on 10/21/03 ] (bw) Modified on 10/24/2003 (Entered: 10/24/2003)
11/04/2003	(59) Filed Memo-Endorsement on letter: by USA as to Shlomo Cohen , from Jeffrey A. Udell, Dated October 28, 2003, addressed to: Judge Daniels Re: Reschedule Sentencing, reset Sentencing for 11:00 11/19/03 for Shlomo Cohen Judge's Memo-endorsed... SO ORDERED , ( Signed by Judge George B. Daniels ); (jw) (Entered: 11/04/2003)
12/03/2003	(60) MEMORANDUM OF LAW by USA in opposition to sentencing applications of defendant Shlomo Cohen. re: 51 Motion for Miscellaneous Relief. (bw, ) (Entered: 12/04/2003)
12/04/2003	(61) ENDORSED LETTER as to Shlomo Cohen: addressed to Judge Daniels from AUSA Jeffrey A. Udell, dated 12/2/03, filed by USA as to deft Shlomo Cohen. The parties jointly request that the Court adjourn the sentencing from 12/3/03 to 12/16/03 at 10:30 a.m.; JUDGE "SO ORDERED". (Signed by Judge George B. Daniels on 12/4/03). [ microfilm 12/5/03 9am ](bw, ) (Entered: 12/08/2003)
12/16/2003	(62) ENDORSED LETTER as to Shlomo Cohen addressed to Judge Daniels from Attorney Bettina Schein dated 12/12/03 re: requesting an adjournment of sentencing. As to Shlomo Cohen: Sentencing set for 1/21/2004 10:30 AM before Judge George B. Daniels. Judge memo-endorsed: Sentencing rescheduled for 1/21/04 at 10:30 a.m. (Signed by Judge George B. Daniels on 12/16/03)(ph, ) (Entered: 12/17/2003)
02/09/2004	(63) REPLY BRIEF by Shlomo Cohen in support of his sentencing applications. (ph, ) (Entered: 02/10/2004)
02/11/2004	Minute Entry for proceedings held before Judge George B. Daniels: Sentencing held on 2/11/2004 for Shlomo Cohen (2) Count 1s,2s. (ph, ) (Entered: 02/17/2004)
02/11/2004	DISMISSAL OF COUNTS on Government Motion as to Shlomo Cohen (2) Count 1.(ph, ) (Entered: 02/17/2004)
02/11/2004	(64) JUDGMENT as to Shlomo Cohen (2), Count(s) 1, All charges in the original indictment; and the first superseding indictment are dismissed on the motion of the United States. Count(s) 1s, 2s, Imprisonment: 72 months on each count to run concurrently. Supervised release: 36 months. Special assessment: \$200. Count(s) 3s, The defendant has been found not guilty on count 3. (Signed by Judge George B. Daniels on 2/11/04)(ph, ) (Entered: 02/17/2004)

02/17/2004		Judgment entered in money judgment book as #04,0285 as to Shlomo Cohen in the amount of \$ 200.00, re: <u>64</u> Judgment. (ph, ) (Entered: 02/19/2004)
02/20/2004	65	NOTICE OF APPEAL by Shlomo Cohen from <u>64</u> Judgment. Filing fee \$ 255.00, receipt number E500387. Copies of Notice of Appeal mailed to Attorney(s) of Record: U.S. Attorneys Office and Court Reporters. (dt, ) (Entered: 02/20/2004)
02/20/2004		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Shlomo Cohen to US Court of Appeals re: <u>65</u> Notice of Appeal - Final Judgment. (dt, ) (Entered: 02/20/2004)
04/02/2004	66	TRANSCRIPT of Proceedings as to Shlomo Cohen held on 2/11/04 before Judge George B. Daniels. (dfe, ) (Entered: 04/02/2004)
04/02/2004	67	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal as to Shlomo Cohen re: <u>65</u> Notice of Appeal - Final Judgment USCA Case Number 04-0983-cr, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (dt, ) (Entered: 04/02/2004)
09/27/2005		Appeal Record Sent to USCA (File). Indexed record on Appeal as to Shlomo Cohen re: <u>65</u> Notice of Appeal - Final Judgment USCA Case Number 04-0983, were transmitted to the U.S. Court of Appeals on 9/27/05 to the attention of Vincenza Mathias. (tp, ) (Entered: 09/27/2005)
11/18/2005	68	MANDATE of USCA (certified copy) as to Shlomo Cohen re: <u>65</u> Notice of Appeal - Final Judgment; USCA Case Number 04-0983-cr. On consideration whereof, it is hereby Ordered, Adjudged and Decreed that the judgment of conviction is AFFIRMED, and the case is REMANDED to the District Court to consider whether to resentence deft in accordance with the opinion of this Court.... Conclusion of Opinion: The judgment of the District Court convicting deft is hereby AFFIRMED. The cause is REMANDED to the District Court for consideration whether to resentence deft in accordance with U.S. v. Crosby, 397 F.3d 103 (2d Cir. 2005). Roseann B. MacKchnie, Clerk USCA. Issued As Mandate: 11/10/05. (bw, ) (Entered: 11/23/2005)
11/18/2005		Transmission of USCA Mandate/Order to the District Judge (Daniels, J.) on 11/23/05 re: <u>68</u> USCA Mandate - Final Judgment Appeal. (bw, ) (Entered: 11/23/2005)
11/29/2005		ORDER of USCA as to Shlomo Cohen re: <u>65</u> Notice of Appeal - Final Judgment USCA Case Number 04-0983. The mandate in the above entitled case was inadvertently issued to the district court on 11/10/2005. Roseann B. MacKchnie, Clerk USCA. (nd, ) (Entered: 11/29/2005)
11/29/2005		Appeal Remark as to Shlomo Cohen re: <u>65</u> Notice of Appeal - Final Judgment USCA Case Number 04-0983-cr. Mandate returned to USCA to the attn. of Michelle Roker. (nd, ) (Entered: 11/29/2005)
01/06/2006	69	MANDATE of USCA (certified copy) as to Shlomo Cohen re: <u>65</u> Notice of Appeal - Final Judgment; USCA Case Number 04-0983-cr. On consideration whereof, it is hereby Ordered, Adjudged and Decreed that the judgment of conviction is AFFIRMED, and the case is REMANDED to the District Court to consider whether to resentence deft in accordance with the opinion of this Court.... Conclusion of Opinion: The judgment of the District Court convicting deft is hereby AFFIRMED. The cause is REMANDED to the District Court for consideration whether to resentence deft in accordance with U.S. v. Crosby, 397 F.3d 103 (2d Cir. 2005). Roseann B. MacKchnie, Clerk USCA. Issued As Mandate: 12/30/05. (bw, ) (Entered: 01/10/2006)
01/06/2006		Transmission of USCA Mandate/Order to the District Judge (Daniels, J.) on 1/10/06 re: <u>69</u> USCA Mandate - Final Judgment Appeal. (bw, ) (Entered: 01/10/2006)
07/13/2006		Minute Entry for proceedings held before Judge George B. Daniels :Status Conference as to Shlomo Cohen held on 7/13/2006. Conference held re: Crosby remand and resentencing. Dft counsel present. AUSA present. Dft not present. Court reporter present. (jw, ) (Entered: 07/14/2006)
08/08/2006	70	ENDORSED LETTER as to Shlomo Cohen, addressed to Judge Daniels, from Benjamin M. Lawsky, AUSA, dated 8/8/06, re: request two-week adjournment to respond to the dft's re-sentencing submission, which also includes a Rule 33 motion and a habeas petition. -- Judge endorsed: SO ORDERED. (Signed by Judge George B. Daniels on 8/8/06)(ja, ) (Entered: 08/09/2006)
08/09/2006	71	TRANSCRIPT of Proceedings as to Shlomo Cohen held on 7/13/2006 before Judge George B. Daniels. (jar, ) (Entered: 08/09/2006)
09/06/2006	72	ORDER as to Shlomo Cohen, RE: The Second Circuit affirmed dft's conviction and remanded the case to this Crt for consideration whether to resentence deft in accordance w/US. v. Crosby. On 7/25/06, dft filed an application to be resented. Dft also appended to his re-sentencing request "his Rule 33 motion or in the alternative his 2255 petition on the grounds of Brady violations.".... Dft's request to be resented is denied. Dft's Rule 33 motion is denied as time-barred.... newly discovered evidence must be brought "within 3 years after the verdict or finding of guilty." Dft was found guilty on 1/30/03. The time during which dft was permitted to file his Rule 33 motion is now expired. Dft's habeas petition is denied w/o prejudice to be renewed in the federal district of dft's incarceration.... SO ORDERED. (Signed by Judge George B. Daniels on 8/30/06)(ja, ) (Entered: 09/06/2006)
10/19/2006	73	NOTICE OF APPEAL by Shlomo Cohen from <u>72</u> Order. Copies of Notice of Appeal mailed to Attorney(s) of Record: A.U.S.A. and Court Reporters. (nd, ) (Entered: 10/19/2006)
10/19/2006		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Shlomo Cohen to US Court of Appeals re: <u>73</u> Notice of Appeal - Final Judgment. (nd, ) (Entered: 10/19/2006)

10/19/2006		Appeal Remark as to Shlomo Cohen re: 73 Notice of Appeal - Final Judgment. \$455.00 APPEAL FILING FEE DUE. (nd, ) (Entered: 10/19/2006)
10/19/2006	74	MOTION for Extension of Time to File a Notice of Appeal. Document filed by Shlomo Cohen. (ja, ) (Entered: 10/26/2006)
11/22/2006		USCA Appeal Fees received \$ 455.00, receipt number E 597799 as to Shlomo Cohen on 11/22/06 at 12:11:53 PM re: 73 Notice of Appeal - Final Judgment filed by Shlomo Cohen. (tp, ) (Entered: 11/22/2006)
12/06/2006	75	ORDER as to Shlomo Cohen. Dft's application for a furlough to attend a family funeral in Israel is denied. SO ORDERED. (Signed by Judge George B. Daniels on 12/5/06)(ja, ) (Entered: 12/06/2006)
12/06/2006	76	ORDER denying 74 Motion for Extension of Time as to Shlomo Cohen (2)Def's motion is denied. So ordered. (Signed by Judge George B. Daniels on 12/6/06) (pr, ) (Entered: 12/07/2006)
01/26/2007	77	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal as to Shlomo Cohen re: 73 Notice of Appeal - Final Judgment USCA Case Number 06-4872, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (nd) Additional attachment(s) added on 2/8/2007 (Dulal, Nezam). (Entered: 01/26/2007)
01/26/2007		Appeal Record Sent to USCA (File). Indexed record on Appeal as to Shlomo Cohen re: 73 Notice of Appeal - Final Judgment USCA Case Number 06-4872-cr, were transmitted to the U.S. Court of Appeals on 1/26/2007 to the attn. of L. Rodriguez. (nd) (Entered: 01/26/2007)
08/07/2007	78	MANDATE of USCA (certified copy) as to Shlomo Cohen re: 73 Notice of Appeal - Final Judgment. USCA Case Number 06-4872-cr. Appellant, pro se, moves for appointment of counsel in his appeal from the district court's order declining to resentence him pursuant to this Court's remand in accordance with U.S. v. Crosby, 397 F.3d 103 (2d Cir. 2005), and from the denial of his motions for relief under F.R.Cr.P. 33 and 28 U.S.C. Section 2255. To the extent that appellant appeals from the denial of resentencing and Rule 33 relief, this Court has determined sua sponte that the notice of appeal in this case was not timely filed under Rules 4(b)(1)(A) and 4(b)(3)(A)(ii) of the F.R.App.Proc. To the extent that Appellant appeals from the denial of his Section 2255 motion, his notice of appeal is construed as a motion for a certificate of appealability. However, Appellant has not made a "substantial showing of the denial of a constitutional right." 28 U.S.C. Section 2253(c). Therefore, upon due consideration, it is ORDERED that the motions are denied and the appeal is dismissed. The district court denied the Section 2255 motion without prejudice. Therefore, petitioner's motion may not be treated as a successive habeas petition within the meaning of the Antiterrorism and Effective Death Penalty Act of 1996. Catherine O'Hagan Wolfe, Clerk USCA. Issued As Mandate: 8/6/07. (bw) (Entered: 08/14/2007)
08/07/2007		Transmission of USCA Mandate/Order to the District Judge (Daniels, J.) on 8/14/07 re: 78 USCA Mandate - Final Judgment Appeal. (bw) (Entered: 08/14/2007)
08/22/2007		MOTION to Vacate under 28 U.S.C. 2255. Document filed by Shlomo Cohen. Original document filed in the Civil Case file folder. (bw) Civil case 1:07-cv-7397 opened. (Entered: 08/22/2007)
11/05/2007		Appeal Record Returned. Indexed record on Appeal Files as to Shlomo Cohen re: 77 Appeal Record Sent to USCA - Index, Appeal Record Sent to USCA - File USCA Case Number 06-4872, returned from the U.S. Court of Appeals. (nd) (Entered: 11/05/2007)
11/08/2007	79	ORDER denying [] Motion to Vacate (2255) Shlomo Cohen (2) Count 1s,2s as to Shlomo Cohen (2) Petitioner's motion dtd 7/20/07 and filed 8/20/07, entitled Motion to Vacate, Set Aside or Correct Sentence Purs to 18:2255 on the grounds of ineffective assistance of counsel, & violation of due process and equal protection is denied. As petitioner has not made a such a showing as indicated a certificate of appealability will not issue. Additionally, the court certifies purs to 18USC 1915(a)(3) that any appeal from this order would not be taken in good faith Coppedge v. US, 369 US 438 (1962). So Ordered(Related to 07cv 7397). (Signed by Judge George B. Daniels on 11/8/07) (pr) (Entered: 11/09/2007)
12/19/2007	80	NOTICE OF APPEAL by Shlomo Cohen from 79 Order on Motion to Vacate (2255). Filing fee \$ 455.00, receipt number E 636495. Copies sent to attorney(s) of record: A.U.S.A. (tp) (Entered: 12/20/2007)

2255, APPEAL, CLOSED

**U.S. District Court**  
**United States District Court for the Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:07-cv-07397-GBD**  
**Internal Use Only**

Cohen v. USA  
Assigned to: Judge George B. Daniels  
Related Case: 1:01-cr-01208-GBD-2  
Cause: 28:2255 Motion to Vacate / Correct Illegal Sentence

Date Filed: 08/22/2007  
Date Terminated: 11/08/2007  
Jury Demand: None  
Nature of Suit: 510 Prisoner: Vacate Sentence  
Jurisdiction: U.S. Government Defendant

Date Filed	#	Docket Text
08/20/2007	1	MOTION to Vacate, Set Aside or Correct Sentence (28 U.S.C. 2255). NO FURTHER ENTRIES. PLEASE SEE CRIMINAL CASE: 01-cr-1208 (GBD). Document filed by Shlomo Cohen.(mbe) (Entered: 08/22/2007)
11/08/2007	2	ORDER re: 1 Motion to Vacate/Set Aside/Correct Sentence (2255) filed by Shlomo Cohen. As petitioner has not made a such a showing as indicated a certificate of appealability will not issue. Additionally, the court certifies pursuant to 18USC 1915(a)(3) that any appeal from this order would not be taken in good faith Coppedge v. US, 369 US 438 (1962). So Ordered(Related to 01cr1208) (Signed by Judge George B. Daniels on 11/8/07) (pr) (Entered: 11/09/2007)
12/19/2007		NOTICE OF APPEAL from 2 Order. Document filed by Shlomo Cohen. Filing fee \$ 455.00, receipt number E 636495. Copies sent to attorney(s) of record: A.U.S.A. ORIGINAL DOCUMENT ENTERED IN CRIMINAL CASE #01cr1208-2, DOC. #80. (tp) (Entered: 12/20/2007)
12/20/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: Notice of Appeal. (tp) (Entered: 12/20/2007)
12/20/2007		Transmission of Notice of Appeal to the District Judge re: Notice of Appeal. (tp) (Entered: 12/20/2007)